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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,090	12/05/2003	Leonard Jan-Peter Ketelsen	KETELSEN 13-18-5	8803
27964	7590	04/04/2005	EXAMINER	
HITT GAINES P.C. P.O. BOX 832570 RICHARDSON, TX 75083			TRAN, MAI HUONG C	
			ART UNIT	PAPER NUMBER
			2818	

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/729,090	KETELSEN ET AL.
	Examiner Mai-Huong Tran	Art Unit 2818

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 March 2005.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) 8-20 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1 and 5-7 is/are rejected.  
 7) Claim(s) 2-4 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 05 December 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 12/5/03.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restriction***

Application's election without traverse of Group II (Claims 1-7) drawn to process of making a semiconductor device is acknowledged for prosecution in the subject application. Accordingly, claims 8-20 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Applicants have the right to file a divisional application covering the subject matter of the non-elected claims.

### **Claim Rejections - 35 U.S.C. § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 6 are rejected under 35 U. S. C. § 102 (b) as being anticipated by U.S. Patent No. 5,805,629 to Takemi et al.

Regarding to claim 1, Takemi discloses a method of manufacturing an optical device, comprising forming a mesa structure from a substrate 1, the mesa structure having a cladding layer 9 located thereover; and isolating an end of a first layer 7 from the cladding layer 9 by encapsulating the end between second 6 and third layers 8 located adjacent the mesa structure (col. 1, lines 50-67, col. 2, lines 1-23, and figs 14d and 15).

Regarding to claim 6, Takemi discloses the method further including a fourth layer 2 wherein the second layer 6 is located between the first 7 and fourth layers 2 and the fourth layer 2 is doped with a p-type dopant (col. 1, lines 50-62 and figs. 14d, 15).

### **Claim Rejections - 35 U.S.C. § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103 (a) as being unpatentable over U.S. Patent No. 5,805,629 to Takemi et al. in view of the remark.

Regarding to claim 5, Takemi discloses the claimed invention except for the second and third layers are doped with an n-type dopant.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the second and third layers that are doped with an n-type dopant since it was known in the art that the layers are doped with an n-type dopant.

Claim 7 is rejected under 35 U.S.C. 103 (a) as being unpatentable over U.S. Patent No. 5,805,629 to Takemi et al. in view of Akulova et al. (6,664,605).

Regarding to this claim, Takemi discloses the claimed invention except for the method wherein the first layer is doped with a metal capable of diffusing into the cladding layer. However, Akulova discloses the first layer is doped with a metal capable of diffusing into the cladding layer (col. 2, lines 30-56).

### **Allowable Subject Matter**

Claims 2-4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mai-Huong Tran, (571) 272-1796. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 6:30 PM. The examiner's supervisor, David Nelms can be reached on (571) 272-1787.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mai-Huong Tran